

VZCZCXRO0600
OO RUEHLMC
DE RUEHNR #0494/01 0331230
ZNY CCCCC ZZH
O 021230Z FEB 06
FM AMEMBASSY NAIROBI
TO RUEHC/SECSTATE WASHDC IMMEDIATE 9332
RUEHLMC/MILLENNIUM CHALLENGE CORP IMMEDIATE
INFO RUEATRS/DEPT OF TREASURY WASHDC PRIORITY
RUEHXR/RWANDA COLLECTIVE

C O N F I D E N T I A L SECTION 01 OF 04 NAIROBI 000494

SIPDIS

SIPDIS

DEPT FOR AF/E, AF/EPS, EB/IFD/OMA
USAID FOR AFR/DP WADE WARREN, AFR/EA JEFF BORNES AND
JULIA ESCALONA
MCC FOR KEVIN SABA AND MALIK CHAKA
TREASURY FOR LUKAS KOHLER
LONDON AND PARIS FOR AFRICA WATCHERS

E.O. 12958: N/A

TAGS: [ECON](#) [EAID](#) [EFIN](#) [KCOR](#) [PGOV](#) [PREL](#) [KE](#)

SUBJECT: CORRUPTION IN KENYA: FINANCE MINISTER RESIGNS,
DIPLOMATS SEE THE PRESIDENT

Ref: A. Nairobi 395, B. Nairobi 284, C. 05 Nairobi 5103

Classified by Econ Counselor John Hoover for reasons 1.4
(B) and (D).

11. (C) Summary: In an unprecedented move, Kenya's Finance Minister has resigned in response to the Anglo-Leasing and related revelations. In resigning, David Mwiraria asserted his innocence - a claim swiftly countered by John Githongo, the man whose dossier on high-level corruption and cover-up in the administration of President Mwai Kibaki continues to rock Kenyan politics. Kibaki has yet to speak publicly about the scandals, and in a private meeting with the Ambassador and other diplomats February 2, he was defensive and dismissive of Githongo. This may bode ill for hopes among the public and donors that Kibaki will at last rise above the fray and come clean in dealing with the corruption that has dogged his administration for the last two years. End summary.

Mwiraria Quits, Proclaims Innocence

12. (SBU) In the first substantive Government of Kenya (GOK) response to the public release of the Githongo dossier (reftels), David Mwiraria on February 1 resigned from his post as Finance Minister. In a prepared statement read at an afternoon press conference, Mwiraria denied the allegations made against him in the media by Githongo, and said that he was voluntarily resigning to pave the way for investigations which he said would clear his name and protect the integrity of his family. President Kibaki was reported to have immediately accepted the resignation. To date, however, Kibaki has not made a single public statement that directly addresses the allegations of high-level corruption and cover-up that continue to swirl around him.

Githongo Counterpunches

13. (SBU) In a rapid response to Mwiraria's claims of innocence, John Githongo showed he's increasingly willing to play hardball. In a statement issued from the UK immediately following Mwiraria's resignations remarks, he said, "I want to categorically state that evidence in my possession conclusively proves that Mr. Mwiraria was an

integral player in the Anglo-Leasing scandal and related scams." And in a subtle unspoken challenge to Kenya Anti-Corruption Commission (KACC) Director Aaron Ringera, Githongo said, "No impartial and independent inquiry can reach a contrary conclusion."

Every Man for Himself?

¶4. (SBU) The Mwiraria resignation takes place in the context of an ongoing media frenzy fueled by the explosive allegations contained in the Githongo dossier, and also by the apparent unraveling of Kibaki's former inner circle. On January 29, former Security (and then Transport) Minister Chris Murungaru, believed to be at the center of the Anglo-Leasing and similar scams, sent a memo to the KACC reporting that President Kibaki himself authorized the tainted \$57 million contract for the purchase of a Kenyan naval vessel. Murungaru does not explicitly suggest wrongdoing by Kibaki, but is reported to say in his memo "no procurement of this magnitude can go ahead without the President's authorization."

More Public Resentment Over Luxury Cars

¶5. (SBU) The GOK was also rocked by revelations published by the Kenya branch of Transparency International the week of January 31 that the GOK spent \$12.2 million in 2003 and 2004 for luxury cars for ministers and other senior civil servants and parastatal heads. At a time when Kenya is suffering from devastating drought and famine, the report

NAIROBI 00000494 002 OF 004

resonated with the public in pointing to such waste and extravagance as "morally reprehensible and ethically indefensible". It cites such spending as one of the reasons "why Government fails to deliver the economic development...the country has the potential for."

Murungaru Plays Games with KACC

¶6. (C) In the background, press reports indicate the KACC has reopened investigations and that Murungaru and Vice President Moody Awori were both questioned the week of January 30. Predictably, Murungaru is fighting the allegations against him. Murungaru has publicly proclaimed his innocence and welcomed investigations into the allegations against him as a way to clear his name. But on February 1, he went to court to stop the KACC from exercising its legal authority by requiring him to disclose his personal wealth through the GOK's mandated wealth declaration forms. In a rich touch of irony, Murungaru's lawyer, Member of Parliament Paul Muite, argued that doing so amounted to self-incrimination.

Embassies Engage in Quiet Diplomacy

¶7. (C) By prior agreement after the publication of the Githongo dossier, the U.S. and other like-minded members of the diplomatic and donor communities have said little of substance in public about the scandal, preferring to give the GOK and the Kenyan public time to respond, and to also engage in quiet diplomacy. As follow up, Ambassador Bellamy and four other Nairobi-based chiefs of mission (Canada, Germany, Sweden, and the UK) met privately with President Kibaki on February 2. They delivered a carefully coordinated written memorandum that conveys the international community's alarm over the current situation. The memo, signed by a total of 11 chiefs of mission, calls

for swift, decisive action by Kibaki as a means to achieve political accountability and restore a measure of confidence in his administration. The text of the memorandum follows below in para 12. It was conveyed to President Kibaki in strictest confidence and is thus not for dissemination outside USG channels.

¶8. (C) Separate reporting will provide additional details into the COM/Kibaki meeting, but the Ambassador in a preliminary readout while enroute from State House to Mombasa, reported a "very discouraging response" by Kibaki. Kibaki and his advisors, for example, repeatedly tried to discredit John Githongo, and dismissed the latter's dossier as "no basis for action." Kibaki remarked that Mwiraria acted on his own when he resigned. If this is true, it would indicate Kibaki has yet to make any important decisions in dealing with the crisis himself.

Comment: Where From Here?

¶9. (C) In the sad context of Kenya's recent history, Mwiraria's resignation is unprecedented, and in this sense marks progress towards greater political accountability. While professing his innocence, the soft-spoken and technically competent Mwiraria nonetheless showed a degree of political maturity and personal responsibility in stepping down, particularly if he did so of his own volition.

¶10. (C) It is unclear what if any additional steps Kibaki will take to respond to public demands to clean house -- and come clean himself. The press is speculating that Energy Minister Kiraitu Murungi and Vice President Moody Awori might be next to resign or be fired given their prominent roles in the Githongo dossier. But based on Kibaki's meeting with diplomats February 2, we fear a scenario in the coming days in which the President will do nothing further in the hopes that the Mwiraria resignation (and the earlier exclusion of Murungaru from cabinet) will be enough to mollify the public and donors and make the problem go away.

NAIROBI 00000494 003 OF 004

¶11. (C) But doing so would put Kibaki on thin ice. Public and media pressure to do more continues to be intense, and as noted above, Githongo is not going away either. Kibaki would be wise to re-embrace (instead of vilify) Githongo, apologize to the nation for letting his vision for the country go so far off-track, and pledge to clean house and turn his administration around. But thus far, he has shown little evidence of an ability to get a grip on the crisis burning around him, let alone rise above the fray and exert inspirational leadership. Until he does, we have to be ready in the coming days to speak out publicly on the need for more action.

¶12. (C) Text of the February 2 letter and memorandum to President Kibaki from concerned members of the diplomatic community follows below:

Cover letter:

Your Excellency,
Concerned about the recent reports of corruption within the Kenyan administration in connection with the Anglo-Leasing and other similar cases, the undersigned Heads of Missions wish to present you the attached memorandum in the spirit of partnership and dialogue that has characterized our support for Kenya. Building on earlier steps to improve governance, we urge you to take all necessary and prompt actions in order to demonstrate your Government's credibility and to restore confidence of members of the international community and we wish to reiterate our

support in this regard.

Yours truly,

[Signed by the Chiefs of Mission of: Australia, Canada, Denmark, Finland, Germany, Netherlands, Norway, Sweden, Switzerland, United Kingdom, United States].

Text of Memorandum:

We represent some of Kenya's most supportive international development partners. It is in this capacity as friends of Kenya and in the spirit of partnership that has characterised our support for Kenya, we continue to support the anti corruption-related institutional and legal measures put in place by the Government since 2003 and recall the current administration's initial commitments to zero tolerance of corruption. We are deeply concerned by the recent reports of high-level corruption and cover-up within the Kenyan administration in connection with the Anglo-Leasing and other similar cases.

We view these revelations as serious and credible. They have laid bare the hard fact that the Government of Kenya has neither dealt effectively with the above-mentioned issues, nor with some of their underlying causes.

As such, in the eyes of the Kenyan public and the international community, the administration faces a deepening crisis of confidence. The response to this crisis will likely have profound implications for the near-term direction of Kenya's democratic evolution, and for its relations with international development partners.

We therefore urge the President to swiftly seize this moment to affirm his pledge to the fight against corruption in Kenya through concrete and unambiguous actions. Failure to do so will damage the ability and willingness of the international development and business communities to engage as deeply and broadly with Kenya as would otherwise be the case.

It is not our role to prescribe specific actions the President could take to begin to restore the Government's credibility and the confidence of the Kenyan public and the international community. Our assessment of the current political climate both in Kenya and internationally, however, indicates that firm and focused actions would do much to help. Such suggested actions include, but might not be limited to, the following immediate, short-term measures:

1.Consistent with both the spirit and letter of the Ministerial Code of Conduct, Ministers and Government

NAIROBI 00000494 004 OF 004

officials implicated in the Anglo-Leasing and related cases are required to resign or to stand aside pending full investigations into their alleged roles in either committing such crimes, or in covering them up. Publicly it has to be explained why these Ministers and officials are required to resign or step aside.

2.The independence of the Kenya Anti-Corruption Commission (KACC) and the Department of Public Prosecution in pursuing investigations and/or prosecutions of suspects, no matter how highly placed in government, must be reiterated publicly.

3.The Government publicly commits to and implements a policy of timely and regular public disclosure of all audit reports by the Auditor General, as well as all commissioned ad-hoc governance and anti-corruption related investigative reports.

4.Those foreign and Kenyan individuals and companies implicated in the Anglo-Leasing and similar scams should be identified by the Government. Neither they nor their

proxies should be allowed to do business with the Government unless and until investigations into their alleged crimes fully exonerate them.

While legal accountability is indispensable to the fight against corruption, this alone is not sufficient. In fact, the recent Anglo-Leasing revelations underline an equally important reality. When those very legal and institutional measures fail to root out the most insidious forms of graft, then it is incumbent upon the nation's leaders to use the political and administrative tools at their disposal to enforce political accountability in government.

We hope that whatever steps the President chooses to take now go beyond merely referring cases to the Kenyan Anti Corruption Commission or others for further investigation. We urge the President to include bold and swift executive actions that demonstrate political accountability in his Government. Only then will the Government be able to restore the credibility we all need now to move forward to advance our common goals in nurturing Kenya's democracy, growing its economy, and reducing the poverty of its people.

End text.
Bellamy